

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ROBERT RUSHING,)	
)	CV S-04-424 GEB GGH
Plaintiff,)	
)	
v.)	
)	<u>ORDER</u>
SACRAMENTO COUNTY; SACRAMENTO)	
COUNTY SHERIFF'S DEPT. SHERIFF LOU)	
BLANAS; and SHERIFF'S DEPUTY T.)	
KOONTZ,)	
)	
Defendants.)	
_____)	

Section IV of the parties' Joint Pretrial Statement does not clearly state what claims exist against each Defendant. Specifically, "Defendants" are referenced on page 2, line 28, and page 3, lines 1-2, but the basis for claims against any Defendant other than Defendant Koontz is unclear. Plaintiff's second claim is also confusing since it is unclear where Plaintiff was physically located when he was subjected to the alleged excessive force, whether Plaintiff has a viable Eighth Amendment claim, and on what basis the claim is asserted against each Defendant.

1 Plaintiff's punitive damage claim is also confusing since Plaintiff
2 references all "Defendants" in the beginning of the sentence and
3 just "Defendant" in the end. Plaintiff's fifth claim should also
4 be clarified.

5 To provide the parties with time to provide the requested
6 clarifications, the final pretrial conference is rescheduled for
7 hearing on August 15, 2005, at 1:30 p.m. The parties'
8 clarification of Section IV of their Joint Pretrial Statement shall
9 be filed no later than August 8, 2005. It behooves the parties to
10 clearly state all issues being litigated so that only viable claims
11 and defenses are preserved for trial and surprises at trial are
12 avoided. Obviously, this is expected under the rationale of
13 Rule 16 of the Federal Rules of Civil Procedure, and would assist
14 the Court in understanding which issues are litigated.

15 IT IS SO ORDERED.

16 Dated: July 20, 2005

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18 /s/ Garland E. Burrell, Jr.
19 GARLAND E. BURRELL, JR.
20 United States District Judge
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